

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

GEORGE ELUKIM OBSTFELD

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-3633

Decision No. CU **312**

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$14,565.12, was presented by GEORGE ELUKIM OBSTFELD based upon the asserted loss of payment for merchandise shipped to Cuba. Claimant has been a national of the United States since his naturalization on November 27, 1951.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

The record contains a copy of claimant's invoice No. 2106 of September 21, 1959, reflecting the sale to Gomez y Cia., S. en C. of Havana, Cuba, of goods totalling \$4,112.10, as to which freight, shipping and other attendant fees increased the total to \$4,423.46; a copy of his invoice No. 2112 of September 22, 1959, reflecting the sale to Gomez y. Cia., S. en C. of goods totalling \$3,011.54, as to which freight, shipping and other fees increased the total to \$3,300.60; a copy of his invoice No. 2114 of September 25, 1959, reflecting the sale to Gomez y Cia., S. en C. of goods totalling \$1,205.35, as to which freight, shipping and other fees increased the total to \$1,294.43; a copy of his invoice No. 2120 of September 30, 1959, reflecting the sale to Gomez y Cia., S. en C. of goods totalling \$1,380.57, as to which freight, shipping and other fees increased the total to \$1,616.21; a copy of his invoice No. 2117 of October 1, 1959, reflecting the sale to Gomez y Cia., S. en C. of goods totalling \$2,460.17, as to which freight, shipping and other fees increased the total to \$2,672.54; and a copy of his invoice No. 2123 of October 5, 1959, reflecting the sale to Gomez y Cia., S. en C. of goods totalling \$1,137.17, as to which freight, shipping and other fees increased the total to \$1,257.88.

Additionally, the record includes letters from The First National Bank of Boston and the Manufacturers Trust Company, in which it is stated that collections totalling \$14,565.12 were paid by the consignee, Gomez y Cia., S. en C., and that the collecting bank, The First National Bank of Boston - Havana Branch, was awaiting a dollar reimbursement release from the Monetary Stabilization Fund, a Cuban Government agency. Claimant states that he has not received the funds.

The Government of Cuba, on September 29, 1959, published its Law 568, concerning foreign exchange. Thereafter the Cuban Government effectively precluded transfers of funds, in this and similar cases, by numerous, unreasonable and costly demands upon the consignees, who were thus deterred from complying with the demands of the Cuban Government. The Commission holds that Cuban Law 568 and the Cuban Government's implementation thereof, with respect to the rights of the claimant herein, was not in reality a legitimate exercise of sovereign authority to regulate foreign exchange, but constituted an intervention by the Government of Cuba into the contractual rights of the claimant, which resulted in the taking of American-owned property within the meaning of Section 503(a) of the Act. (See the Claim of The Schwarzenbach Huber Company, FCSC Claim No. CU-0019.)

Accordingly, in the instant claim the Commission finds that claimant's property was lost as a result of intervention by the Government of Cuba and that, in the absence of evidence to the contrary, the loss occurred on March 12, 1960, as to \$13,307.24 and on August 6, 1960, as to \$1,257.88 the days after collection was acknowledged by the Cuban branch bank.

The Commission has decided that in payment of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be allowed at the rate of 6% per annum from the date of loss to the date of settlement (See the Claim of Lisle Corporation, FCSC Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from the dates on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that GEORGE ELUKIM OBSTFELD suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Fourteen Thousand Five Hundred Sixty-Five Dollars and Twelve Cents (\$14,565.12) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

Dated at Washington, D. C.,  
and entered as the Proposed  
Decision of the Commission

SEP 20 1967

*Edward D. Re*

Edward D. Re, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*LaVern R. Dilweg*

LaVern R. Dilweg, Commissioner

THIS IS A TRUE AND CORRECT COPY OF THE DECISION  
OF THE COMMISSIONER OF THE COMMISSION  
ENTERED AS THE FINAL DECISION ON  
OCT 10 1967  
*Mark*  
Mark  
of the Commission

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)